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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------|------------------|
| 09/939,138 | 08/24/2001 | Robert H. Wilson | LEAR 0781 PUSP | 2980 |
| 7590 | 11/17/2004 | | EXAMINER | |
| Matthew R. Mowers Brooks & Kushman P.C. 22nd Floor 1000 Town Center Southfield, MI 48075-1351 | | | FLETCHER, MARLON T | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2837 | |
| | | | DATE MAILED: 11/17/2004 | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|------------------------------|------------------------|---------------------|--|
| | 09/939,138 | WILSON, ROBERT H. | |
| | Examiner | Art Unit | |
| | Marlon T Fletcher | 2837 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 August 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,3,6-9,11-15,18 and 20-26 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 1,3,6-9,11-14 and 23 is/are allowed.

6) Claim(s) 15,18,20-22 and 24-26 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. _____
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15, 18, 20-22, and 24-26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa (6,051,945) in view of McHugh et al. (5,509,504).

Furukawa discloses a window position detection and anti-pinch system for a vehicle door having a window, the system comprising: at least one sensing device (54a and 54b) disposed adjacent the window for detecting the position of the window relative to the frame, the sensor producing an output signal representative of the window position; and a controller responsive to the output signal for comparing the output signal against predetermined values to determine whether an obstruction exists as disclosed in the abstract. Furukawa discloses a first sensing device for sensing position and second sensing device for sensing obstruction as disclosed in the abstract. Energy is blocked when obstruction is detected and the motor is reversed as seen in figure 8. The encoder of Furukawa is rotatable and further monitors pulses as discussed in column 4, line 64 through column 5, line 25. The encoder further has a multi-pole magnet.

Furukawa does not disclose a coding arrangement.

However, McHugh et al. discloses a coding arrangement for detecting a position of a door (moveable member) based on a coding strip which is read by a photo-detector as discussed in column 2, line 61 through column 3, line 2. McHugh et al. further provide a moveable or rotatable incremental linear encoder as discussed in the abstract (figure 1).

Official Notice is taken with respect to photo-interrupters being well known in the art for detecting window position and outputting a window obstruction or position signal; and for adding additional sensors for detecting the same.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of McHugh et al. with the apparatus of Furukawa, because the use of coding arrangement provides a more accurate position detecting system, wherein the coding provides exact position, wherein the use of the system with a door or a window, would provide the same, wherein the applicant's present invention teaches the use of detecting a window or door, wherein anti-pinch is controlled based on position of the vehicle opening device. The positioning aspect is enhanced by the use of the coding mechanism.

Allowable Subject Matter

3. Claims 1, 3, 6-9, 11-14, and 23, are allowed.

Response to Arguments

4. Applicant's arguments filed 08/23/04 have been fully considered but they are not persuasive.

While numerous claims have been allowed, there still remain claims that do not read over the prior art. The addition of a sensor for providing the same as a first sensor does not provide patentable weight, because it is obvious that additional sensors only provide the same, wherein there are merely more elements for providing the same.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T Fletcher whose telephone number is 571-272-2063. The examiner can normally be reached on M-W, F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Marlon T Fletcher
Primary Examiner
Art Unit 2837

MTF
11/15/04